

1 Honorable Ricardo Martinez
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 QWEST CORPORATION,

11 Plaintiff,

12 v.

13 ANOVIAN, INC., et al.,

14 Defendants.

15 No. 08-CV-01715 MAT

16 DECLARATION OF ALEX GERTSBURG IN
17 SUPPORT OF MOTION OF BROADVOX
18 DEFENDANTS TO DISQUALIFY WILKINSON,
19 BARKER, KNAUER, LLP; TO STRIKE
20 OPPOSITION BRIEF FILED BY WILKINSON IN
VIOLATION OF CONFLICT OF INTEREST
RULES; AND FOR OTHER APPROPRIATE
RELIEF

21 Noted on Motion Calendar: March 12, 2010

22 Alex Gertsburg, under penalty of perjury, declares as follows.

23 1. I am one of the attorneys for defendants Broadvox, Inc., Broadvox, LLC and
24 BroadvoxGo!, LLC (“Broadvox Defendants”) in the above-entitled action. I am also General
Counsel for the Broadvox Defendants. I am of age and competent to testify.

25 2. On February 3, 2010, I received a phone call from Attorney Larry Movshin of
the law firm of Wilkinson Barker Knauer, LLP (“Wilkinson”) asking that Broadvox waive a
conflict of interest that Wilkinson has in hiring Attorneys Roselli and Walker and having
them continue to represent Qwest in litigation against Broadvox.

26 3. I stated to Mr. Movshin that I agreed Wilkinson had a conflict, but that

1 Broadvox declined to waive it, whereupon Mr. Movshin then immediately informed me that
2 Wilkinson was terminating its attorney-client relationship with Broadvox.

3 4. By way of background, six months earlier, in July 2009, Broadvox, Inc. had
4 retained Wilkinson to assist Broadvox in complying with the regulations of the Federal
5 Communications Commission (FCC) relating to local number portability, 911 service and the
6 Communications Assistance for Law Enforcement Act (CALEA).

7 5. Between July and November of 2009, various Wilkinson attorneys had
8 numerous technical discussions with Broadvox personnel concerning Broadvox's network,
9 technology, call transmission, traffic type and patterns, and operations, and received
10 confidential written communications and other confidential documentation from Broadvox
11 about those areas.

12 6. The last substantive communication from Wilkinson concerning its compliance
13 work was sent to Broadvox on November 6, 2009. A privilege-redacted copy of that
14 communication is attached hereto at Exhibit A-1. Other than the redaction, Exhibit A-1 is a
15 true and accurate copy of the original.

16 7. Although I began reviewing Wilkinson's work product, I have not completed
17 that review.

18 8. Attached hereto at Exhibit A-2 is a privilege-redacted e-mail exchange I had
19 with Attorney Movshin between February 3 and 4, 2010. Other than the redaction, Exhibit A-
20 2 is a true and accurate copy of the original.

21 9. Attached hereto at Exhibit A-3 is a privilege-redacted e-mail exchange I had
22 with Attorney Movshin on February 5, 2010. Other than the redaction, Exhibit A-3 is a true
23 and accurate copy of the original.

10. Attached hereto at Exhibit A-4 is a privilege-redacted e-mail exchange I had with Attorney Movshin on February 8, 2010. Other than the redaction, Exhibit A-4 is a true and accurate copy of the original.

11. I estimate that, after filing this brief and preparing and filing the reply brief next month, Broadvox will incur approximately \$2500 in attorneys' fees in connection with this motion.

DATED this 19th day of February, 2010.

By /s/ Alex Gertsburg
Alex E. Gertsburg

1 CERTIFICATE OF SERVICE

2 I hereby certify that on the 19th day of February, 2010, I electronically filed the
3 foregoing with the Clerk of the Court using CM/ECF system which will send notification of
4 such filing to all attorneys of record.

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9 /s/ Judy Goldfarb
Judy Goldfarb, Assistant to
David Binney